

Assembly Bill No. 905

CHAPTER 487

An act to amend Sections 861, 882, and 45031 of the Food and Agricultural Code, relating to agricultural commodities.

[Approved by Governor October 11, 2009. Filed with
Secretary of State October 11, 2009.]

LEGISLATIVE COUNSEL'S DIGEST

AB 905, Committee on Agriculture. Agricultural commodities.

Existing law provides that for lots over 200 pounds of any fruits, nuts, or vegetables that are the food product of any tree, vine, or plant, and for lots of over 200 pounds of walnut burl wood, every person who sells that commodity shall provide the buyer or transporter with a record of proof of ownership for each lot of the commodity. Existing law provides that every person who buys the commodity for resale shall obtain from the previous buyer or from the transporter a record of proof of ownership for each lot of the commodity. Other provisions of existing law provide that a violation of these provisions is a misdemeanor.

This bill would, except regarding walnut burl wood, as to which the 200-pound minimum would continue to apply, provide a 25-pound minimum for these lots to be subject to the above requirements concerning proof of ownership. The bill would provide that the record of proof of ownership provisions shall also apply to every person who sells or buys the commodity for resale, processing, or further distribution through any commercial or nonprofit enterprise.

By expanding the scope of existing provisions of law, the violation of which is a misdemeanor, this bill would impose a state-mandated local program.

Existing law provides that upon reasonable belief that a person is in unlawful possession of an agricultural commodity, as specified, the commodity may be held by the Secretary of Food and Agriculture, the county agricultural commissioner, or by any peace officer and that the commissioner may hold the commodity on the premises where it was seized, pending disposal as specified.

This bill would provide, in addition, that the commodity may be seized by the secretary, commissioner, or any peace officer, and that the commissioner may take possession and maintain custody of the commodity, pending disposal as specified.

Existing law provides that every person who is in possession of over 40 pounds of avocados that are produced in this state shall possess a record of proof of ownership of the avocados. Other provisions of existing law provide

that a violation of these provisions is an infraction or a misdemeanor, as specified.

This bill would instead require a record of proof of ownership for possessing over 25 pounds of avocados. By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 861 of the Food and Agricultural Code is amended to read:

861. For lots of over 25 pounds of any fruits, nuts, or vegetables that are the food product of any tree, vine, or plant, or for lots of over 200 pounds of any burl wood from a walnut tree, living or dead, and that are marketed for commercial purposes, all of the following apply:

(a) Every person who sells the commodity for resale, processing, or further distribution through any commercial or nonprofit enterprise shall provide the buyer or transporter with a record of proof of ownership for each lot of the commodity.

(b) Every person who buys the commodity for resale, processing, or further distribution through any commercial or nonprofit enterprise shall obtain from the previous buyer or from the transporter a record of proof of ownership for each lot of the commodity.

(c) Every person who transports for commercial purposes shall possess a record showing proof of ownership for each lot of the commodity during transportation.

SEC. 2. Section 882 of the Food and Agricultural Code is amended to read:

882. Upon reasonable belief that a person is in unlawful possession of a commodity regulated by this chapter, the commodity may be held or seized by the secretary, the commissioner, or any peace officer and shall be turned over to the custody of the commissioner. The commissioner may hold the commodity on the premises where it was seized or may take possession of the commodity and maintain custody until disposed of according to the requirements of Section 884.

SEC. 3. Section 45031 of the Food and Agricultural Code is amended to read:

45031. Every person who is in possession of over 25 pounds of avocados that are produced in this state shall possess a record of proof of ownership of the avocados.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that

may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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